IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE M/S Soll Avenue, 60' S of the * CONING COMMISSIONER (1936-1940 Bell Avenue) 13th Election District * OF BALTIMORE COUNTY

> * Case No. 93-46-A Chester L. Farley, et ux Petitioners

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Zoning Variance filed by the legal owners of the subject property, Chester L. and Virginia J. Farley, and the Contract Purchaser, Matthew Decker, President of the Decker Group. The Petitioners request relief from Sections 1802.3.C.1 and 304.1.C of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50 feet in lieu of the required 55 feet for Lots 11, 12, and 13 of the Oak Park subdivision, also known as 1936, 1938 and 1940 Bell Avenue. The Petitioners also request a variance to permit a minimum lot area of 4,850 sq.ft. in lieu of the required 6,000 sq.ft. for an existing dwelling on Lot 11 and a proposed dwelling on Lot 12, all as more particularly described on Petitioner's Exhibit

Appearing in support of the Petition was Matthew Decker. Appearing as Protestants in the matter were Elfreida B. Lowe, Marjorie Helwig and Helene E. Seibert, adjoining and nearby residents of the area.

Testimony indicated that the subject properties, known as 1936, 1938 and 1940 Bell Avenue, consist of three lots, known as Lots 11, 12 and 13 of Oak Fark and are zoned D.R. 5.5. Lot 11 consists of 4,850 sq.ft. in area and is improved with a single family dwelling. Lot 12 contains 4,850 sq.ft. in area and Lot 13 has an area of 7,265 sq.ft. Lots 12 and 13 are unimproved. The Petitioners propose to develop Lots 12 and 13 with a

two-story frame dwelling on each. The Petitioners filed the instant Petition due to the fact that the subject properties do not meet current zon-

Mr. Decker testified that the Oak Park subdivision was developed seeks only to legitimize existing conditions.

In opposition to the request, Ms. Elfreida Lowe testified. She

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical

ing regulations as set forth above

many years ago. The original plat for the development of this community was based on 50-foot wide lots. He testified that many of the existing homes in this community were built on only one lot. He did admit, however, that several homes were built on double or triple lots. Thus, the community contains a mixture of dwellings, built upon either 50, 100 or 150-foot wide lots. Mr. Decker further testified that Lots 12 and 13 would be undevelopable without the requested variances. As to Lot 11, Mr. Decker

resides immediately to the rear and adjacent to the subject properties. Ms. Lowe objects to the relief requested and is particularly concerned about storm water runoff which might result if Lots 12 and 13 are develnoted that her dwelling is located to the rear of her lot and immediately adjacent to her adjoining property line with Lots 11 and 12. Ms. Lowe also noted that the roads in this neighborhood are narrow and that parking and traffic congestion would be exacerbated if the variances were granted. Ms. Helwig and Ms. Seibert echoed Ms. Lowe's concerns.

difficulty for an area variance, the Petitioner must meet the following:

1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome:

- 2-

feet in lieu of the required 55 feet and to permit a minimum lot area of 4,850 sq.ft. in lieu of the required 6.000 sq.ft. for an existing dwelling on Lot 11 (1936 Bell Avenue), in accordance with Petitioner's Exhibit 1, be and is hereby CRANTED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance requesting relief from Sections 1802.3.C.1 and 304.1.C of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50 feet in lieu of the required 55 feet for Lots 12 and 13, and to permit a minimum lot area of 4,850 sq.ft. in lieu of the required 6,000 sq.ft. for Lot 12, be and is hereby DENIED.

Zoning Commissioner

for Baltimore County

LES:bjs

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

October 7, 1992

(410) 887-4386

Mr. Matthew Decker The Decker Group 1321 Dillon Heights Road Baltimore, Maryland 21228

RE: PETITION FOR ZONING VARIANCE W/S Bell Avenue, 60' S of the c/l of Cross Avenue (1936 Bell Avenue) 13th Election District - 1st Councilmanic District Chester L. Farley, et ux - Petitioners Case No. 93-46-A

Dear Mr. Decker:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in part and denied in part in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3351.

> LAWRENCE E. SCHMIDT Zoning Commissioner for Baltimore County

LES:bjs

cc: Mr. Earl Pfeifer 5% Realty Company, 377-A Gambrills Road, Gambrills, Md. 21054 People's Counsel

Contract Purchaser/Lessee

RECEIVED FOR

Petition for Variance to the Zoning Commission to the Zoning Commissioner of Baltimore County

for the property located at 1936 -40 Bell Avenue, Lots No. 11,12 & 13

which is presently zoned

D.R. 5.5 This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1B02.3.C.1 and 304.1.C from the Baltimore County Zoning Regulations to permit the following variances on Lots 11, 12 and 13 of "Oak Park" as indicated on the following schedule 'A' and site plan.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or

Applicant unable to secure a reasonable return or make a reasonable use of his property as originally intended in complying with referenced zoning standards.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Legal Owner(s)

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Patition

The Decker Group Chester L. Farley (Type or Print Name) Signature MATTHEW DECICER 1321 Dillon Heights Road Virginia J. Farley Baltimore 21228 Box 53 Coal City, W, VA, 25823 State Zipcode
Name, Address and phone number of legal owner, contract purchaser or representative
to be contacted. Earl Pfeifer - 5% Realty Co. 377A Gambrills Rd. 987-7337 OFFICE USE ONLY ESTIMATED LENGTH OF HEARING ORDER Date

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

The Petitioner bears the burden of adducing testimony that practical difficulty will result if the relief requested is not granted. The variance may not be granted for matters of convenience or economic gain. If the Petitioner can enjoy a reasonable use of the property without the granting of the variance, it should not be granted.

Further, Section 304.C of the B.C.Z.R., the regulation from which the Petitioners seek relief provides a lawful mechanism for development of undersized lots with single family dwellings. That Section permits a dwelling to be erected on a lot having an area or width less than that required if: a) the lot is part of a duly recorded subdivision adopted prior to the regulations; b) that all other height and area regulations are complied with; and, c) that the owner of the lot does not own sufficient adjoining land to conform substantially to the width and area requirements. Each of these three requirements need be satisfied before development of a single family dwelling on an undersized lot may be permitted. As noted above, the Petitioners seek a variance from Section 304.0 of the B.C.Z.R.

As to Lot 11 (1936 Bell Avenue), I am persuaded that the variance should be granted. As the Petitioner and protesting neighbors note, the subject property is improved and the house thereon has existed for

- 3-

many years. The Petitioner seeks only to legitimize the existing situation. Under these diroumstances, I am persuaded that the variances for this lot should be granted and will so order.

Lots 12 and 13 present a different issue. Although individually, they each lack the required width of 55 feet, they are collectively 190 feet in width. Further, a combination of Lots 12 and 13 would result in a significant area which far exceeds the square footage required. Further, the lots are presently undeveloped and thus, the owner of same is afforded the luxury of being able to improve the property while still complying with the area and width regulations of the B.C.Z.R. Indeed, Section 304.C of the B.C.Z.R. contemplates the exact situation which is presented. That is, the Petitioner must present compelling reasons why the variances should be granted, in that he collectively owns sufficient acreage to develop one single family dwelling on Lots 12 and 13, thereby meeting the proper area and width requirements. Mr. Decker presented no rational basis why he cannot build a dwelling using both lots as has been the case for many double lot owners in this subdivision. Under these circumstances, 1 am convinced that the variances for Lots 12 and 13 should be denied. A desire to obtain an increased financial return by construction on both lots cannot serve as the basis for the granting of the variance.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested shall be granted in part and denied in part.

IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of October, 1992 that the Petition for Zoning Variance requesting relief from Sections 1802.3.C.1 and 304.1.C of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50

THE DECKER GROUP

August 13, 1992

93-46-A

Schedule "A" -Oak Park

Lot No. 11: To permit a minimum lot width of 50' in lieu of 55'. To permit a minimum net lot area per dwelling unit of 4850 square feet in lieu of 6,000 square feet.

Lot No. 12: To permit a minimum lot width of 50' in lieu of 55'. To permit a minimum net lot area per dwelling unit of 4850 square feet in lieu of 6,000 square feet.

Lot No. 13: To permit a minimum lot width of 50' in lieu of 55'.

THE DECKER GROUP

August 13, 1992 93-46-A

ZONING DESCRIPTION FOR LOT NO. 11, # 1936 BELL AVENUE

Begining at a point on the west side of Bell Avenue which is 40 feet wide at the distance of 10 feet south of the center line of the nearest improved intersecting street, Cross Avenue, which is 20 feet wide. Being Lot Number 11, in the subdivision of Oak Park as recorded in Baltimore County Plat Book Number 3, Folio 145, containing 0.1113 acres of land, more or less. Also known as Lot No. 11, # 1936 Bell Avenue in the 13th Election District.

ORIO Date

- 5-

52

August 13, 1992

93-46-A

ZONING DESCRIPTION FOR LOT NO 12, # 1936 BELL AVENUE

Begining at a point on the west side of Bell Avenue which is 40 feet wide at the distance of 60 feet south of the center line of the nearest improved intersecting street, Cross Avenue, which is 20 feet wide. Being Lot Number 12, in the subdivision of Oak Park as recorded in Baltimore County Plat Book Number 3, Folio 145, containing 0.1113 acres of land, more or less. Also known as Lot No. 12, # 1936 Bell Avenue in the 13th Election District.

THE DECKER GROUP

August 13, 1992

93-46-A

(410) 887-3353

ZONING DESCRIPTION FOR LOT NO. 13, # 1936 BELL AVENUE

Begining at a point on the west side of Bell Avenue which is 40 feet wide at the distance of 110 feet south of the center line of the nearest improved intersecting street, Cross Avenue, which is 20 feet wide Being Let Number 13, in the subdivision of Oak Park as recorded in Baltimore County Plat Book Number 3, Folio 145, containing 0.1668 acres of land, more or less. Also known as Lot 13, # 1936 Bell Avenue in the 13th Election District.

> **Baltimore County Government** Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

AUGUST 28, 1992

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows

CASE NUMBER: 93-46-A (Item 52) W/S Bell Avenue, SWC Cross Avenue 1936-40 Bell Avenue (Lots #11, #12, and #13) 13th Election District - 1st Councilmanic Legal Owner(s): Chester L. & Virginia J. Farley Contract Purchaser(s): The Decker Group

HEARING: THURSDAY, OCTOBER 1, 1992 at 2:00 p.m. in Rm. 118, Old Courthouse Variance to permit a minimum lot width of 50 feet in lieu of 55 feet (Lots #11, #12 and #13); and to permit a minimum net lot area per dwelling unit of 4850 sq. ft. in lieu of 6,000 sq. ft. (Lots #11 and

Zoning Commissioner of Baltimore County

cc: Chester & Virginia Farley Earl Pfeifer The Decker Group

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

CERTIFICATE OF POSTING ZONNING DEPARTMENT OF BALTIMORE COUNTY 93-H6-H

> Vaniones Politicaer Chater + Vizginia Ferlay & M. Vacker Group. Location of property: 4/5 50/1 As - (1930-10) Lots # 11 12 +13. Location of Signer Formy Yords way an property to be zone &

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1938-40 Bell Avenue
(Lote #11, #12 and #13)
13th Election District
1st Councilmanic
Legal Owner(s):
Chester L. Farley &
Viginia J. Farley
Contract Purchaser(s):
The Declar Group
Heaving: Thursday,
Cotober 1, 1982 et 2:00
p.m. in Rm. 118, Ot
Courthouse. Vertance to permit a minimum tol width of 80 feet in lieu of 85 feet (Lote #11, #12 and #13); and to permit a minimum rat let area per dwelling unit of 4860 eq. it. In lieu of 6,000 eq. it. (Lote #11 and CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of ____ successive weeks, the first publication appearing on _____

THE JEFFERSONIAN.

5. Zefe Orlan

to the second County Office Building 111 West Chesapouke Avenue Account. R-001-6150 3.137.3 Estication in a compare person - 010 - 20m1MG 26R46M() - (314-) TAST NAME OF COMMERC OF CLERK OF THE 1936-40 Bell. N Please Make Checks Payable To: Ballingore County \$150.00 49 CO11#28AMD8-13 92

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

II 1 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

DATE: 9-10 42

The Decker Group 1321 Dillon Height Road Baltimore, Maryland 21228

CASE NUMBER: 93-46-A (Item 52) W/S Bell Avenue, SWC Cross Avenue 1936-40 Bell Avenue (Lots #11, #12, and #13 13th Election District - 1st Councilmanic Legal Owner(s): Chester L. & Virginia J. Farley Contract Purchaser(s): The Decker Group HEARING: THURSDAY, OCTOBER 1, 1992 at 2:00 p.m. in Rm. 118, Old Courthouse

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Baltimore County Government
Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

September 24, 1992

Coal City, WV 25823 RE: Item No. 52, Case No. 93-46A Petitioner: Chester L. Farley, et ux

Petition for Variance

Dear Mr. & Mrs. Farley:

Mr. & Mrs. Chester L. Farley

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

Your petition has been received and accepted for filing this 13th day of August, 1992

Zoning Plans Advisory Committee

Petitioner: Mr. Chester L. Farley, et ux Petitioner's Attorney:

COUNT 20 FINAL TOTALS COUNT 21

Complete Engineering Division (Public Services) Development Review Committee Response, Form 08/27/92 Authorized signature _______ Description Date 0/31/92 Project Name File Number Waiver Number Zoning Issue Meeting Date James Enterprises 8-24-92 NC DED DEPRM RP STP TE White Marsh Joint Venture DED DEPRM RP STP TE Salvo Realty, Inc. DED DEPRM RP STP TE Comment Robert T. and Lorri A. Burgess DED DPERM RP STP TE Comme Chester L. And Virginia J. Farlev DED DEPRM RP STP TE Mark Allan Claypoole DED DPERM RP STP TE Ritz Enterprises DED DEPRM RP STP TE Glenda L. Mosley DED DEPRM RP STP TE Comment Etta E. Plonden and Joan and Garland Arrington DED DEPRM RP STP TE

*** END OF REPORT ***

BALTINORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director Zoning Administration & Development Management FROM: Pat Keller, Deputy Director Office of Planning and Zoning

DATE: September 14, 1992

SUBJECT: 1936 Bell Avenue INFORMATION: Item Number: The Decker Group Petitioner:

Property Size: D.R. 5.5

This petitioner is requesting a variance to permit a minimum lot width of 50 feet in lieu of 55 feet, to permit a net lot area of 4850 square feet in lieu of 6,000 on lots 11, 12 13. The Office of Planning and Zoning recommends that the petitioner's request be

The proposed new homes to be constructed on these lots along Bell Avenue are consistent with the existing lot sizes and housing types. Granting variances would not result in substantial injury to public health, safe-

Prepared by: Italica Includes

Division Chief: Enug M. Danul

PK/EMcD/FM:rdn

ty and general welfare.

Hearing Date:

52.ZAC/ZAC1

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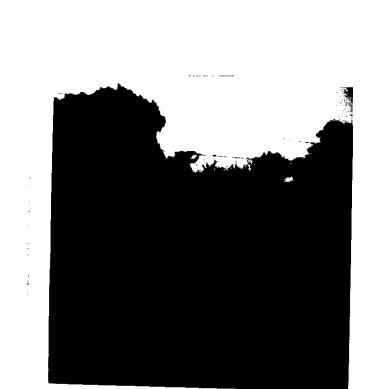
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Fire Prevention Bureau

Baltimore County Government Fire Department

AUGUST 24, 1992

#1936-40 BELL AVENUE -- LOTS #11, 12, AND 13

Zoning Agenda: AUGUST 24, 1992

RE: Property Owner: CHESTER L. FARLEY AND VIRGINIA J. FARLEY

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER:

Planning Group

Planning Group

Special Inspection Division

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

(410) 887-4500

700 East Joppa Road Suite 901 Towson, MD 21204-5500

Director Zoning Administration and

Item No.: 52 (LJG)

Baltimore County Office Building Towson, MD 21204

Development Management

Location:

Gentlemen:

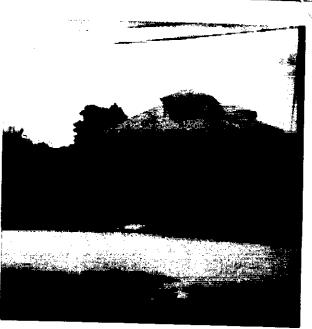
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	County Courts Bldg, Rm 406			HEU	EIVE
	401 Bosley Av Towson, MD 21204				
FROM:	Arnold Jablon, Director, Zoning Admi	inistration and Develop	ment Management	SEP	14 1992
RE:	Undersized Lots				ICE OF
tions and	Pursuant to Section 304.2(Baltimore comments from the Office of Planning	County Zoning Regula	tions) effective June 25	, 1992; this office is head	G.S.ZONI
	APPLICANT SUPPLIED INFORMATION:	a	Ones a approval of a c	waning partific	
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□ Let Lec	ation 1938 \$ 1940 1	BELL AV	Election District 1.1	Telephone Humber	Sanam Fare
Addres	wher Chester + Virgi	nia tarky	Tax Account Humber		 _
WEG1 63			Telephone N	• • • • • • • • • • • • • • • • • • •	
2	2. Site Plan Property <i>Toplo</i> Phologrametric Map (available in film 2)		<u>/</u>	Code Acce Date	epted by LS ZMA 9/10/97
1	5. Building Elevation Drawings	Pi	- 11.040		
4	I. Photographs	,—	_	_	
	Adjoining Buildings		<u>-</u>		
	Surrounding Neighborhood	ע	_		
, <u> </u>	TO BE FILLED	IN BY THE OFFICE OF PL	ANNING AND ZONING ONL	YI	
ECOMMENT	DATIONS/COMMENTS:				
Appro	ovel Disapprovei,	Approval conditioned o	n required modification:	s of the permit to conform	with the following
Sta	aff has reviewed the appl	IBCOMMENTATIONS.			
lot	and find that the propo	sed structure	is appropriate	for this locati	on.
	e applicant submitted sev				on.
sho	owing the housing types s	urrounding thi	S site The n	conceed now home	
to	be constructed on the ab	oved reference	d lots are cons	sistent with the	3
exi	sting lot sizes and hous	ing types.	- 1000 41 6 6011	Tracent with the	
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